

Cigarette and Tobacco Products Taxes

NEWSLETTER

Online Cigarette and Tobacco Products License Renewal—Coming Soon!

Our new online license renewal process for cigarette and tobacco products retailers, manufacturers, importers, wholesalers, and distributors is scheduled to launch in early 2014. The online renewal process will enable you to quickly and conveniently log in and renew your license—saving you time and money.

It's easy to get started. Log in with your user ID and password at www.boe.ca.gov.

The Board of Equalization (BOE) wants to make sure you have the latest information that could affect your business. It is very important that you provide and maintain your current email address with us in order to receive the latest news, including renewal and other important information affecting your account and license.

For updates, visit our website and sign up to receive BOE updates. You can register for the Rich Site Summary (RSS) to receive the latest news or sign up for cigarette and tobacco related updates at www.boe.ca.gov/info/enotify.htm.

Federal law requires manufacturer's license for retailers with roll-your-own cigarette machines

If you operate a retail store that makes available a commercial cigarette-making machine for use by customers, federal law requires you to obtain a permit as a "manufacturer of tobacco products" from the Alcohol and Tobacco Tax and Trade Bureau (TTB).

It is against the law to operate as a manufacturer of tobacco products without a TTB permit, and doing so without proper permits risks civil and/or criminal liability. TTB has instructed that retailers operating without a permit "must immediately cease operations until a TTB permit is obtained." TTB's enforcement efforts have included investigations of retail locations where the machines are made available to members of a "social club" or "non-profit." TTB has indicated that the non-profit status of the "person" making the machine available is not relevant in evaluating "commercial purposes" under Internal Revenue Code section 5702 and has found members of a "social club" or "non-profit" to be in violation of the law and has assessed taxes.

Retailers affected by this law are encouraged to contact the TTB directly for additional information at Regulations@ttb.gov or visit the TTB's website at www.ttb.gov/other/regulations.shtml (see 27 CFR Part 40, Manufacture of Tobacco Products and Cigarette Papers and Tubes and Processed Tobacco).

Our previous guidance on these machines with respect to California licensing rules remains the same. For more information, see [Cigarette and Tobacco Products Taxes Newsletter \(October 2011\)](#). A retailer providing machine access to customers is not considered a manufacturer and does not need to obtain a manufacturer's license under the California Cigarette and Tobacco Products Licensing Act of 2003, as long as the retailer sells loose tobacco and the customers who own the loose tobacco roll their own cigarettes. These retailers also do not have any California reporting requirements under the California Cigarette and Tobacco Products Tax Law.

Sales of imported tobacco products

The import and sale of other tobacco products (OTP) manufactured outside the United States to a licensed California distributor by the original

importer is not subject to the California cigarette and tobacco products tax at this point in the distribution chain. The purchasing California-licensed distributor is required to report and pay the tax on OTP based on their purchase price (wholesale cost) when the products are redistributed. Because the sale/distribution by the original importer is exempt from the tax, the original importer cannot collect amounts represented as the tax on OTP on their sales of imported products to licensed California distributors.

An "Original Importer" is a person who purchases and directly imports OTP manufactured outside the United States for resale to licensed California tobacco products distributors.

A California original importer who makes sales in California to persons other than licensed California distributors is also required to be licensed as a tobacco products distributor. The original importer is liable for the tax on these sales and must remit the tax on their distribution of OTP to unlicensed persons. The tax on OTP would be based on the original importer's wholesale cost of the product.

Wholesale cost is normally the cost of OTP to the distributor making the taxable distribution prior to any discounts or trade allowances. The cost to distributors includes the price paid to their suppliers for the OTP, including, but not limited to any federal excise taxes and U.S. Customs charges paid and any other charges related to the product, but excluding any freight charges for shipment between the supplier and distributor. However, additional manufacturing costs should also be included in the wholesale cost if further processing of the OTP is performed before the taxable distribution.

Cigarette and tobacco products retailers: remember to retain your invoices and maintain your records

Keeping accurate records helps you comply with important state regulations. Remember to retain purchase invoices for your resale stock of cigarettes and tobacco products for four years.

The invoices you receive from a wholesaler or distributor must include the name, address, telephone number, and cigarette and tobacco products license number of the wholesaler or distributor.

The most recent twelve months of invoices must be kept at the retail location for at least one year after purchase. You must provide them upon request during normal business hours, for inspection and copying by BOE staff or a member of a law enforcement agency. Any retailer who fails, refuses, or neglects to retain or make available invoices for inspection is in violation of the Cigarette and Tobacco Products Licensing Act and may be cited. See [publication 78, Sales of Cigarette and Tobacco Products in California](#), for more information on recordkeeping.

General Interest

New website with enhanced features and quick access to information

We used your suggestions and designed our new website for you—our taxpayers and fee payers. The website allows our customers to conveniently conduct business with us while creating a faster, more user-friendly online experience. Our new streamlined layout enables you to easily find

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information, connect with us through social media, and use our online services to access your accounts. Some of our new features include:

- **Convenient log in button** to access all our online services from the homepage.
- **Better navigation** and a task-orientated design enable you to *File a Return, Make a Payment*, and conduct other business more quickly.
- **Interactive banners** highlight important business tax news and updates.
- **Easy to find information** with *Popular Topics, How Do I*, and *Business Center* resources accessible from the homepage. Plus, your BOE bookmarks still work.

Your input has enabled us to create a faster, easier, and more convenient online experience for you!

Credit card payments

Our new credit card payment system is up and running. We have a new telephone number for credit card payments: 1-855-292-8931. Our new, enhanced system provides our tax and fee payers with:

- A simpler and faster payment process;
- Additional payment options (for example, Fire Fee and Lumber Assessment); and
- An exclusive phone number for BOE tax and fee payers.

New mobile app available

BOE's new mobile app is a free, fast, easy, safe and convenient new way to do business! It allows you to easily make payments on your BOE tax and fee accounts using most mobile devices. The app also allows you to manage account details. Users can log in with a user ID and password, or Express Login. Check out the BOE Mobile Services page at www.boe.ca.gov/mobile/ and download the app for iPhones or Androids or run it on a mobile browser or other mobile devices.

Online payment plan

We understand you may have difficulty making tax or fee payments on time. The BOE is ready to work with you to find the best available solutions. You will soon have the ability to request a payment plan for past due amounts through the BOE website. Payments will be automatically withdrawn through your checking or savings account. You will have the ability to propose weekly, biweekly, or monthly payments. Implementation of this service is scheduled for December 2013.

Taxpayer refund rules eased

The BOE is pleased to announce that the Governor has signed BOE-sponsored legislation that will reduce the likelihood that taxpayers and fee payers (taxpayer) will miss the deadline for reimbursement of bank charges resulting from a BOE erroneous levy or collection or processing error. The law becomes effective January 1, 2014.

Senate Bill 442 is part of the BOE's ongoing commitment to improve our taxpayers' experience through better, more efficient customer service.

Current law only allows the BOE to issue reimbursement of these charges if the taxpayer requests them within 90 days of the BOE error that caused the bank charges. The new law will extend the time to file a reimbursement claim to 90 days after the charges were incurred. This extension provides taxpayers more opportunity to see the charges on their bank statements, and not miss the deadline to file a reimbursement claim.

Annual Taxpayers' Bill of Rights hearings to begin

Do you have suggestions for improving our services? Do you have an idea for changing a tax or fee issue? If you do, come share your ideas and concerns with our Board Members at our annual Taxpayers' Bill of Rights hearings. You may present your proposal in person or in writing.

Although you are not required to make advance arrangements to speak, it will help us to prepare if you contact the Taxpayers' Rights Advocate Office at 1-888-324-2798 beforehand to let us know your topic. If your proposal is complex or extensive, we encourage you to submit it in advance and then summarize it in your oral presentation.

The dates and times for the 2014 business and property tax hearings, normally held in Sacramento and Culver City, were not yet set when this article went to press, but you may check our website or contact the Taxpayers' Rights Advocate Office for details.

For more details, please call the Advocate Office or visit them at www.boe.ca.gov where you can also view the office's latest annual report.

Know your rights

As a taxpayer, you have many rights under the law, including the right to:

- Information and assistance to help you comply with the law;
- Fair and courteous treatment, and prompt service;
- Confidentiality;
- Appeal a decision or claim a refund as allowed by law; and
- Address your elected Board Members.

Along with those rights, you have responsibilities to:

- Keep informed about tax laws and regulations that affect your business;
- Report and pay taxes and fees when due;
- Promptly respond to BOE attempts to contact you;
- Inform the BOE of changes to your business ownership or address; and
- Maintain adequate records.

For more information see [Understanding Your Rights as a California Taxpayer \(Publication 70\)](#).

Civil behavior in trying times

Some observers have noted that civility is decreasing in our society as our lives become more complex. We know that you may find yourself frustrated with the difficulties of the tax laws or pressed for time when dealing with our staff. Still, we ask that you treat our employees just as you would like to be treated in a business situation. Any threatening statement or gesture made to a BOE employee—even a statement made in jest—will be referred to our Internal Affairs Section for investigation.

Ethics at work —“Thank you” is enough

We would like to remind you that BOE policy prevents our employees from accepting gifts of any type. So if you are grateful to someone for going the extra mile to help you with a complicated issue, a simple “thank you” will do. You may also use our online Customer Service Survey form at [How Are We Doing Survey—Property and Special Taxes Department](#) to express yourself.